Ji Soon Hin v The Government of Malaysia & Ors

HIGH COURT (KUCHING) — ORIGINATING SUMMONS NO 24–250 OF 1998–I
IAN CHIN J
30 JANUARY 1999

Labour Law *— Pensions — Suspension of — Plaintiff employed by Inland Revenue Department until retirement — Plaintiff subsequently worked with Inland Revenue Board — Monthly pension suspended under s 26 of Statutory and Local Authorities Pensions Act 1980 — Whether suspension lawful — Whether plaintiff was appointed under New Scheme so as to make it lawful to resort to s 26 — Whether plaintiff's appointment as employee of Inland Revenue Board was a reappointment — Statutory and Local Authorities Pensions Act 1980 s 26*

Ji Soon Hin ('the plaintiff') was employed by the Inland Revenue Department on a pensionable post until he opted to retire, under the Pensions Act 1980 ('the Pensions Act), on 29 February 1996 after which he worked with the Inland Revenue Board ('the IRB'). The plaintiff's application for optional retirement was approved but he was informed that payment of the monthly pension was to be suspended under s 26 of the Statutory and Local Authorities Pensions Act 1980 ('the Act'). The plaintiff was dissatisfied with the suspension and commenced this action seeking a declaration that: (i) resort to s 26 of the Act to suspend the payment of the monthly pension was unlawful; and (ii) he was entitled to receive the payment of the pension monthly with effect from 1 March 1996.

The issues were, inter alia, whether: (i) the plaintiff was appointed under the New Scheme so as to make it lawful to resort to s 26; and (ii) the plaintiff's appointment as an employee of the Inland Revenue Board was a reappointment (as opposed to a new appointment).

Held, granting the declarations sought:

(1) The Pensions Act applies only to officers in the public service and the definition of public service in s 2 does not include service in statutory and local authorities. Consequently, the defendant could not contend that s 26 was applicable in the suspension of the pension due to the plaintiff under the Pensions Act (see p 267F–G).

Also, the plaintiff could not be considered to have been appointed to the IRB under the New Scheme as defined under s 2 which means 'revision of salaries and terms and conditions of service of employees ... that were in force on 1 January 1976' so as to justify the applicability of s 26. This was because IRB only came into existence on 1 March 1996, thus there was no question of there being in existence on 1 January 1976 any salary scheme for the IRB then. It followed that there could not be any 'revision' of such salary scheme when the plaintiff was appointed to the IRB on 1 March 1996, which in turn precluded the application of s 26 in the suspension of the plaintiff's pension (see pp 269H–270B).

(2) The appointment of the plaintiff to the IRB was a new appointment as opposed to that of a reappointment and, consequently, the requirement that the employee must have been 'reappointed as a permanent employee' in s 26 before his pension could be suspended would appear to take the plaintiff out of the ambit of s 26. This was because the plaintiff was an officer of the public service before he became an employee of the IRB and therefore, 'reappointment' must be a resumption of his old post as an officer of a public service and an assumption of office by the plaintiff as an employee of the IRB could not be a 'reappointment' or a resumption of his old post as an officer of the public service (see pp 271H–272A).

[Bahasa Malaysia summary

Ji Soon Hin ('plaintif') telah diambil bekerja oleh Jabatan Hasil Dalam Negeri dalam satu jawatan berpencen sehingga beliau memilih untuk bersara, di bawah Akta Pencen 1980 ('Akta Pencen tersebut') pada 29 Februari 1996, selepas mana beliau bekerja dengan Lembaga Hasil Dalam Negeri ('IRB'). Permohonan plaintif untuk persaraan pilihan telah diluluskan tetapi beliau telah dimaklumkan bahawa pembayaran pencen bulanan hendaklah ditunda di bawah s 26 Akta Pencen Berkanun dan Pihak Berkuasa Tempatan 1980 ('Akta tersebut'). Plaintif tidak berpuashati dengan penggantungan tersebut dan telah memulakan tindakan ini dengan memohon satu pengisytiharan bahawa: (i) menggunakan s 26 Akta tersebut untuk menunda pembayaran pencen bulanan adalah tidak sah di sisi undang-undang; dan (ii) beliau berhak untuk menerima bayaran pencen tersebut secara bulanan berkuatkuasa dari 1 Mac 1996.

Isu-isunya adalah, antara lain, sama ada: (i) plaintif telah dilantik di bawah Skim Baru bagi menjadikannya sah di sisi undang-undang untuk menggunakan s 26; dan (ii) perlantikan plaintif sebagai seorang pekerja Lembaga Hasil Dalam Negeri adalah suatu perlantikan semula (bertentangan dengan satu perlantikan baru).

Diputuskan, memberikan pengisytiharan yang dipohon:

(1) Akta Pencen tersebut hanya terpakai kepada pegawai-pegawai dalam perkhidmatan awam dan penakrifan perkhidmatan awam dalam s 2 tidak termasuk perkhidmatan dalam badan berkanun dan pihak berkuasa tempatan. Akibatnya, defendan tidak boleh menegaskan bahawa s 26 terpakai dalam penangguhan pencen yang kena dibayar kepada plaintif di bawah Akta Pencen tersebut (lihat ms 267F–G).

Juga, plaintif tidak boleh dianggap sebagai telah dilantik ke IRB di bawah Skim Baru sepertimana yang ditakrifkan di bawah s 2 yang bermaksud 'semakan gaji dan terma-terma serta syarat-syarat perkhidmatan pekerja ... yang telah dikuatkuasakan pada 1 Januari 1976' bagi mewajarkan pemakaian s 26. Ini adalah

kerana IRB hanya wujud pada 1 Mac 1996, dengan itu tidak terdapat persoalan wujudnya sebarang skim gaji pada 1 Januari 1976 untuk IRB ketika itu. Dengan itu, tidak mungkin terdapat sebarang 'semakan' akan skim gaji yang sedemikian ketika plaintif dilantik oleh IRB pada 1 Mac 1996, yang selanjutnya menghalang pemakaian s 26 dalam penggantungan pencen plaintif (lihat ms 269H–270B).

(2) Perlantikan plaintif ke IRB adalah satu perlantikan baru bertentangan dengan perlantikan semula dan, akibatnya, keperluan bahawa pekerja tersebut mestilah 'dilantik semula sebagai pekerja tetap' dalam s 26 sebelum pencennya boleh ditangguhkan nampaknya membawa plaintif keluar dari lingkungan s 26. Ini adalah kerana plaintif merupakan seorang pegawai perkhidmatan awam sebelum beliau menjadi seorang pekerja IRB dan dengan itu 'perlantikan semula' semestinya merupakan suatu penyambungan semula akan jawatannya yang lama sebagai seorang pegawai perkhidmatan awam dan penyandangan jawatan oleh plaintif sebagai seorang pekerja IRB tidak mungkin merupakan satu 'perlantikan semula' atau suatu penyambungan semula akan jawatannya yang lama sebagai seorang pegawai perkhidmatan awam (lihat ms 271H–272A).

Notes

For cases on pensions generally, see 8 *Mallal's Digest* (4th Ed, 1996 Reissue) paras 1015–1018.

Cases referred to

Chor Phaik Har v Farlim Properties Sdn Bhd [1994] 3 MLJ 345 (refd)
Commonwealth, The v Baume [1905] 2 CLR 405 (refd)

Legislation referred to

Federal Constitution art 147
Pensions Act 1980 ss 2, 12(2)(b), 15(1), 20, 21, 23
Pensions Adjustment Act 1980
Pensions Ordinance 1951
Pensions Ordinance 1963 (Sabah)
Pensions Ordinance (Sarawak)
Statutory and Local Authorities Pensions Act 1980 ss 1(2), 26, (1)

Michael Bexter (*Ee & Lim*) for the plaintiff.
Haliza bte Sulaiman (Senior Federal Counsel) (*Ahmad Razif bin Mohd Sidek* with him) (Federal Counsel) for the defendant.

Cur Adv Vult

Ian Chin J:

Introduction

Ji Soon Hin ('the plaintiff') was employed by the Inland Revenue Department ('the department') from 1 November 1969 on a pensionable post until he opted to retire, under the Pensions Act 1980 on 29 February 1996 in order to work with the Inland Revenue Board ('the IRB') that came into existence after the passing of the Inland Revenue Board of Malaysia Act 1995. His employment with the IRB, which commenced on 1 March 1996 and at which time the plaintiff was 51 years old, obliged him to contribute to the Employment Provident Fund Scheme. His application for optional retirement from the department was approved belatedly but retrospectively to 1 March 1996 vide a letter dated 27 May 1997 which letter also informed the plaintiff that the payment of the monthly pension, in the sum of RM1,702 is to be suspended under s 26 of the Statutory and Local Authorities Pensions Act 1980 though the gratuity of RM90,376.20 was paid to him. The plaintiff is dissatisfied with the suspension of the payment of his monthly pension. He commenced the present action on 9 September 1998 to seek a declaration that: (i) resort to s 26 of the Statutory and Local Authorities Pensions Act 1980 to suspend the payment of the monthly pension was unlawful; and (ii) he was entitled to receive the payment of the pension monthly with effect from 1 March 1996. The issues in this case turn on the interpretation of the relevant provisions of the Pensions Act 1980 and of the Statutory and Local Authorities Pensions Act 1980.

The Pensions Act 1980

The preamble of the Pensions Act 1980 says that it is:

> ... to provide for the administration of pensions, gratuities and other benefits for officers in the public service and their dependants.

'Public service' is defined in an exhaustive list in s 2 to include, among others, the General Public Service of the Federal Government and it does not include service in statutory and local authorities for which there is a separate legislation. There is power conferred upon His Majesty the King (the Yang di-Pertuan Agong) to declare other services to be a public service for the purposes of this Act. By s 12(2)(b) the plaintiff, who has opted for early retirement, may be granted a pension and gratuity if he has attained the age of 50. The pension and gratuity, as mentioned earlier, were in fact approved but, as regards the pension, the payment was suspended under s 26(1) of the Statutory and Local Authorities Pensions Act 1980 when an employee 'is reappointed as a permanent employee'. There is a somewhat similar provision in s 23 of the Pensions Act that permits the suspension by His Majesty the King of the pension if the officer 'is reappointed as a permanent officer in the public service'. In the case of the plaintiff, there is no dispute that he has not been re-appointed as a permanent officer of the public service. Therefore, resort to s 23 to suspend the pension would not be lawful and the defendants have not relied on this section. There are other

provisions in the Pensions Act that govern the pension which are relevant because they will show that the Pensions Act is intended to cover exhaustively the pension that is payable to an officer in a public service. Quite apart from the provision providing for the suspension of the pension, death of the officer will also affect his pension in that, under s 15(1), a derivative pension will be payable the amount of which is dependent on whether his death occurred within or after 12 years of his retirement. The pension is also affected in that payment will cease where the officer after his retirement became a bankrupt or was convicted of an offence and sentenced to death or a term of imprisonment (ss 20 and 21).

While the Pensions Act applies exclusively to pension due to an officer of the public service, the Pensions Adjustment Act 1980 applies to both officers of the public service and of the statutory and local authorities. The Pensions Adjustment Act serves to confirm the fact that the Pensions Act (together with the Pensions Adjustment Act) applies exclusively to pension payable to an officer of a public service. Therefore, these two Acts are explicit and clear as to their application. This is more so when the historical background of the legislation is considered which I will go into when I construe the meaning of the words used in the legislation. This takes me to consider the Statutory and Local Authorities Pensions Act, particularly s 26(1), which the defendants contend can be applied to the pension due to the plaintiff under the Pensions Act.

The Statutory and Local Authorities Pensions Act 1980

The Statutory and Local Authorities Pensions Act's preamble reads:

> An Act to provide for the administration of pensions, gratuities and other benefits for employees in the statutory and local authorities and their dependants pursuant to the revision of salaries and terms and conditions of service of such employees made by the Government with effect from 1 January 1976.

So, it is clear from the preamble of this Act that it is not meant to cover or include officers of the public service who are covered by the Pensions Act but covers only employees of statutory and local authorities. That being the case, how can resort be had to s 26(1) of the Statutory and Local Authorities Pensions Act to suspend the payment of the pension due under the Pensions Act to the plaintiff? Ms Haliza bte Sulaiman, senior federal counsel, and Mr Ahmad Razif bin Mohd Sidek, federal counsel, appeared for the defendants and both jointly argued that it was lawful to resort to s 26(1) which reads:

> Where an employee to whom a pension has been granted under this Act or under any written law is reappointed as a permanent employee, the Minister may suspend the pension during the period of his reappointment.

Both learned federal counsel contended that the section applies because: (i) the plaintiff was appointed under the 'New Scheme' within the meaning of s 2 of the Statutory and Local Authorities Pensions Act; (ii) the plaintiff was an employee of the IRB as from 1 March 1996; (iii) the pension granted

to the plaintiff under the Pensions Act was a pension granted 'under any written law'; and (iv) the plaintiff's appointment as an employee of the IRB was a reappointment (as opposed to a new appointment). Contention (ii) does not call for consideration as it is not in dispute that the plaintiff is an employee of the IRB.

(1) Was the plaintiff appointed under the new scheme?

The Statutory and Local Authorities Pensions Act has been made applicable, by s 1(2), to employees who: (a) have opted or are deemed to have opted for the New Scheme; (b) were appointed under the New Scheme; or (c) were bound by New Scheme by virtue of their option. The 'New Scheme' has been defined under s 2 to mean:

> ... the revised salaries and terms and conditions of service of employees in the statutory and local authorities arising from the revision of salaries and terms and conditions of service of such employees made by the Government with effect from 1 January 1976, or from any other subsequent revision made *or approved* by the Government from time to time.

Before the Statutory and Local Authorities Pensions Act can apply, the IRB must be 'a statutory or local authority within the purview of the New Scheme'. This leads me to ask under what salary scheme the plaintiff was appointed?

It will be recalled that the IRB only came into existence in 1996 after the passing of the Act establishing it. Following that, the executive chairman of the IRB forwarded a draft of a salary scheme to the then Finance Minister for his approval. The IRB's proposal of the salary scheme (except for one proposal which was not accepted) was finally approved on 22 October 1996 by a letter emanating from the Public Services Department. This, the learned senior federal counsel contended, is the New Scheme which 'was a result of a revision made by the government of the salaries, terms and conditions of service of the Lembaga Hasil Dalam Negeri employees at the material time'.

Mr Michael Bexter, learned counsel for the plaintiff, replied in these words:

> The preamble to Act 239 also explains that Act 239 is only applicable in a situation where it involved 'revision' of salaries and terms and conditions of service of such employees made by the Government with effect from 1 January 1976.
>
> It is pertinent to note that the IRB came into existence on 1 March 1996. The plaintiff together with most of the officers and staff from IRD were the pioneering batch of employees in the IRB. The salaries' structure formulated by the IRB for the benefits of its employees was a new salaries structure. I humbly urge your Lordship to refer to para 3.1 at p 3 of exh 'HLP-1' annexed to Tuan Hj Luey's affidavit affirmed on 21 October 1998 which provides that:
>
> '3 Struktur Gaji
>
> 3.1 Dalam menyediakan struktur gajinya, LHDN telah memadankannya dengan gred gaji yang terdapat di KWSP.

A Walau bagaimanapun, penetapan gred gaji baru yang dicadangkan oleh LHDN adalah berasaskan gaji jawatan yang mempunyai matagaji yang tertinggi di dalam sesuatu kumpulan itu.'

It is clear from the above passage that in the preparation of the salaries structure, IRB relied upon the salaries grade currently adopted by EPF Board. B Nevertheless the new salaries grade to be adopted as suggested by IRB was based on the highest salary scale applicable in the post of that group in the EPF Board. As such, the situation faced by the plaintiff could not be said as involving a 'revision of salaries and terms and conditions of service of such employees made by the Government with effect from 1 January 1976' as explained in the preamble to Act 239, which then precluded the application C of s 26(1) of Act 239 specifically and the whole provisions of Act 239 generally in the suspension of the plaintiff's pension.

Further, I respectfully crave the indulgence of your Lordship to refer to s 1 of Act 239 which reads as follows:

1 Short title, commencement and application

D (1) This Act may be cited as the Statutory and Local Authorities Pensions Act 1980 and shall be deemed to have come into force on 1 January 1976.

(2) This Act shall apply throughout Malaysia in respect of employees in the statutory an local authorities —

E (a) who have opted or who are deemed to have opted for the New Scheme;

(b) who were appointed under the New Scheme; or

(c) who by virtue of their option were bound by the New Scheme.

The words 'New Scheme' are defined in s 2 of Act 239 above.

F Applying s 1 of Act 239, the definition of 'New Scheme' in s 2 and upon the facts as explained immediately above, clearly the IRB is not a statutory or local authority as defined, hence the second and third defendants erred in using Act 239 to suspend the plaintiff's pension.

Learned counsel added that the salaries structure and terms of service as proposed by the IRB were all new salaries and terms and conditions of G service and which the Public Services Department did not approve all proposals. Learned counsel then contended that there is no basis for saying that the salaries structure and terms of service in the IRB were revision of salaries and terms and conditions of service of such employees made by the Government. It was further contended by learned counsel that 'if they were revision of salaries and terms and conditions of service of such employees H made by the Government, there is no business for the Public Services Department not to approve the proposals of the IRB'.

In my view, when the Statutory and Local Authorities Pensions Act was passed, it did not envisage the establishment of new statutory or local authority because of the use of the definition 'New Scheme' which limited I its application to only existing statutory or local authorities for which there was then in existence a salary scheme. Hence the definition of 'New Scheme' being confined to 'the revision of salaries and terms and conditions

of service' made by the Government that were in force on 1 January 1976 and their subsequent revisions. There is no question of there being in existence on 1 January 1976 any salary scheme for the IRB since the IRB was not in existence then. Since there was no such salary scheme in the first place, it follows too that there cannot be any 'revision' of such salary scheme. The preamble to the Statutory and Local Authorities Pensions Act also made this very clear when it talked of 'the revision of salaries and terms of service ... made by the Government with effect from 1 January 1976'. However, this issue must not be looked at from that angle only.

The historical background of this legislation and of the Pensions Act, more particularly of the 'New Scheme', must be looked into in order to understand the significance of the dateline of 1 January 1976 before any conclusion can be made as to the applicability of the Statutory and Local Authorities Pensions Act to employees of the IRB. Before the passing of the said various Acts in 1980, there were in existence several legislations covering the matter of pension which were the Pensions Ordinance 1951, the Pensions Ordinance 1963 of Sabah and the Pensions Ordinance of Sarawak which dealt mainly with pensions for public servants while pensions payable to employees of statutory or local authorities were covered by various state enactments, all with varying terms and conditions of service. It was thought that there should be uniformity and hence two Royal Commissions (Suffian Commission for the public service and the Harun Commission for the local authorities and statutory authorities) were established to look into the matter and to make recommendations regarding, among others, the salaries schemes. The terms of reference of the Harun Commission, which was established on 25 May 1971, were these:

(i) to consider and recommend the principles which should govern the remunerations and conditions of service (including superannuation benefits) of employees of Statutory Bodies/Public Authorities bearing in mind the conclusions and recommendations of the Royal Commission on the Revision of Salaries and Conditions of Service for Public Services, commonly known as the Suffian Salaries Commission;

(ii) in the light of such principles, to consider and recommend whether any changes are necessary in the salaries and conditions of service, and if so, to advise on the mode of conversion to any revised scales that may be recommended;

(iii) to recommend the effective date of implementation of the recommended salaries and terms and conditions of service;

(iv) to submit its report and recommendations to Cabinet within six months.

The terms 'Statutory Bodies' and 'Public Authorities' mentioned in the reference were reckoned by the Harun Commission to refer, respectively, to 'Statutory Authorities' and 'Local Authorities'. The six-month deadline could not be met by the Harun Commission to submit its report and was extended to 31 December 1972. A report was then submitted by the Harun Commission in December 1972.

The reports of the said two Royal Commissions resulted in new salary schemes for officers of the public service and for employees of the local

authorities and of statutory authorities throughout Malaysia. The reports were prepared taking into account the views of all interested parties. The Harun Commission was an exercise purely in reference to the then existing statutory and local authorities. In respect of the employees, they were required to decide whether to opt for the new scheme or to be governed by the existing salaries and terms and conditions of service. There was a similar exercise for officers of the public service. Hence, the reference to the 'New Scheme' and to the exercise of option. Thereafter, revisions were made to the salaries schemes from time to time. Hence, the use of the term 'revision' in the legislation. The history which I have narrated further supports my conclusion that the IRB was not within the purview of the Statutory and Local Authorities Pensions Act. Thus, I am of the view that Mr Michael Bexter was correct in his submission that s 26 of the Statutory and Local Authorities Pensions Act could not be relied on for the suspension of the pension of the plaintiff. Though what I have decided is sufficient to find for the plaintiff I would nevertheless proceed to deal with the other two issues together which, for the reasons which I shall state hereafter, I also find in favour of the plaintiff.

(2) Whether the pension granted to the plaintiff under the Pensions Act is a pension granted 'under any written law'; and

(3) Whether the plaintiff's appointment as an employee of the IRB is a reappointment (as opposed to a new appointment)

These two issues will be considered together because the words that are sought to be construed form part of the sentence which have to be looked at not only in the context of the whole sentence but also in the context of the Statutory and Local Authorities Pensions Act, not forgetting also, where necessary and permissible, the historical background of the legislation.

The term 'under any written law' used in s 26 of the Statutory and Local Authorities Pensions Act would, given its literal meaning and when read alone, appear to cover pensions that had been granted under any other law, such as the Pensions Act, other than the Statutory and Local Authorities Pensions Act. This, according to the learned federal counsel, has the result of enabling a Minister, acting under s 26, to suspend a pension which suspension is otherwise only exercisable by His Majesty under the Pensions Act. Likewise, argued the learned federal counsel, His Majesty could under s 23 of the Pensions Act suspend a pension granted under the Statutory and Local Authorities Pensions Act though the power would otherwise be exercisable only by a Minister. Since all words must prima facie be given some meaning and effects (*The Commonwealth v Baume* [1905] 2 CLR 405 at p 414), the interpretation urged by the learned federal counsel appears to have support. However, the requirement that the employee must have been 'reappointed as a permanent employee' in s 26 before his pension can be suspended would appear to take the plaintiff out of the ambit of s 26 because he was not reappointed as a permanent employee but that his employment was an entirely new one. It must not be forgotten that the plaintiff was an officer of the public service before he

became an employee of the IRB and therefore, 'reappointment' must be a resumption of his old post as an officer of a public service and an assumption of office by the plaintiff as an employee of the IRB cannot be a 'reappointment' or a resumption of his old post as an officer of the public service. The learned federal counsel had relied on the various terms of employment of the plaintiff by the IRB to support their contention that the plaintiff was 'reappointed' to the IRB within the meaning of s 26, viz:

(i) the plaintiff's need not go through any probation when employed by the IRB whereas other employee had to undergo a probation of one year; and

(ii) the term 'dilantik semula' (the Malay term for 'reappointment') was used in various clauses in the terms of the plaintiff's employment.

That contention can be dismissed because what was urged by the learned senior federal counsel are not valid aids for interpretation of the meaning of the words of a statute because the statute should be construed having regard to what is within the four walls of the written instrument with all external references excluded (*Chor Phaik Har v Farlim Properties Sdn Bhd* [1994] 3 MLJ 345 at p 356). This is known as the exclusionary rule which can be relaxed in certain circumstances to allow resort to the Hansard or the Bill but terms of employment cannot be regarded as being in those class of references. At most, they can be put forward as constituting an agreement by which the plaintiff had agreed to have his pension suspended as a condition for his appointment as an employee of the IRB. Such is not the case of the defendants. In any case, there are absolutely no terms in his employment with the IRB that he agrees to have his pension suspended.

Would not such an interpretation (assuming that I am wrong in my earlier conclusion that the Statutory and Local Authorities Pensions Act does not apply to the IRB), then, have the effect of rendering the term 'under any written law' superfluous or insignificant? I am of the view that it does not. It will cover those cases where, for example, an employee of the IRB who had retired and was given a pension but was re-engaged or where an employee had retired (after earning a pension) from one statutory board or local authority but was re-engaged by another. In those cases, s 26 of the Statutory and Local Authorities Pensions Act could be employed to suspend their pension. Therefore, the term 'under any written law' had not been rendered superfluous or insignificant by such an interpretation.

Mr Michael Bexter had put forth other arguments in support of his contention that s 26 cannot be used to suspend the pension due to the plaintiff under the Pensions Act, viz that to interpret it otherwise would mean allowing a Minister to exercise the power given to His Majesty to suspend a pension and that it would mean depriving the plaintiff's right to the pension in violation of art 147 of the Federal Constitution since his pension had been rendered less favourable, but I do not propose to go into them since what I have decided thus far is sufficient to dispose of the matter herein.

Conclusion

In the premises, I grant the declarations 1 and 2 prayed for by the plaintiff in the originating summons dated 9 September 1998. There will be costs to the plaintiff.

Plaintiff's application allowed.

Reported by Wong Siok Chin